

**MINUTES
for the
FIRST MEETING
of the
REVENUE STABILIZATION AND TAX POLICY COMMITTEE**

**June 21, 2006
State Capitol, Room 322
Santa Fe, NM**

The first meeting of the Revenue Stabilization and Tax Policy Committee (RSTP) was called to order by Representative Donald L. Whitaker, chair, on June 21, 2006 at 9:55 a.m. in Room 322 at the State Capitol, Santa Fe.

Present

Rep. Donald L. Whitaker, Chair
Sen. John Arthur Smith, Vice Chair
Sen. Ben D. Altamirano
Rep. Janice E. Arnold-Jones
Rep. Keith J. Gardner
Rep. Roberto "Bobby" J. Gonzales
Rep. George J. Hanosh
Rep. Ben Lujan
Sen. William E. Sharer
Sen. James G. Taylor
Rep. Thomas C. Taylor

Designees

Sen. Sue Wilson Beffort
Rep. Irvin Harrison
Rep. Don L. Tripp

Absent

Sen. Mark Boitano
Sen. Carlos R. Cisneros
Sen. Kent L. Cravens
Rep. Anna M. Crook
Sen. Joseph A. Fidel
Rep. Daniel P. Silva
Sen. H. Diane Snyder

Rep. William "Ed" Boykin
Rep. Donald E. Bratton
Sen. Phil A. Griego
Sen. John T.L. Grubescic
Rep. Manual G. Herrera
Sen. Stuart Ingle
Sen. Cisco McSorley
Sen. Steven P. Neville
Rep. Andy Nunez
Sen. Leonard Lee Rawson
Rep. Bill Rehm
Rep. Debbie A. Rodella
Sen. Nancy Rodriguez
Sen. John C. Ryan
Rep. Henry Kiki Saavedra
Sen. Bernadette M. Sanchez
Rep. Joe M Stell

Additional Participants

Rep. Luciano "Lucky" Varela

Staff

Tim Crawford, Legislative Council Service (LCS)

Cleo Griffith, LCS

Pam Ray, LCS

Stephanie Schardin, Legislative Finance Committee (LFC)

Doug Williams, LCS

Guests

The guest list is in the meeting file.

Copies of all handouts and written testimony are in the meeting file.

Wednesday, June 21

Review of Tax Legislation from the 2006 Session

Jan Goodwin, secretary, Taxation and Revenue Department (TRD), made a presentation concerning tax legislation that passed during the 2006 session. She distributed a list of legislation that did not pass and the omnibus 2006 tax legislation (HB 82).

Legislation that passed and has been enacted into law includes:

- tax increment financing;
- gross receipts tax (GRT) on licenses for intangibles;
- film production tax credits;
- GRT deductions for hospital construction (Ms. Goodwin noted that this GRT deduction could have broader impact on tax collections than intended. Senator Smith suggested that a sunset might be appropriate for HB 8 since the deduction was intended for only one project. Ms. Goodwin agreed that a sunset might be appropriate.);
- GRT deductions for counselors and therapists;
- elimination of the daily bed surcharge;
- regional spaceport development GRT;
- TRD contract for collections;
- cigarette stamp procedures (Ms. Goodwin noted that the law is vague concerning the definition of small cigars and that clarifying legislation may be necessary.);
- solar energy tax credits;
- weight-distance permit fees;
- Bernalillo County local GRT option for indigent health care; and
- public inspection of tax credits over \$10,000.

Topics proposed by TRD in legislation that did not pass include:

- technical corrections to Section 7-1-4 NMSA 1978 (HB 828); and
- confidentiality of tax returns and other information (HB 387 & SB 537).

Regarding confidentiality of tax returns, Senator Beffort asked for a clarification of existing exceptions to the confidentiality rules. Ms. Goodwin responded that there are currently as many as 30 exceptions to the confidentiality laws found in Section 7-1-8 NMSA 1978. In all cases, information that is released must still be treated confidentially by the recipient. The proposed legislation would have provided that law enforcement agencies could obtain confidential information. This would obviate the need for a subpoena. Such information must still be treated confidentially by the law enforcement agency.

The following legislation continues the list of topics that did not become law:

- mandatory e-filing of personal income tax returns (HB 382 & SB 320);
- tax threshold for mandating a special payment method (HB 382 & SB 320);
- withholding tax due date (HB 382 & SB 320);
- automatic federal extensions (HB 384 & SB 319);
- change managed audit provisions (HB 384 & SB 319);
- double local option penalty elimination for managed audit taxpayers for food or medical reporting errors (HB 384 & SB 319);
- eliminate double local option penalty for inaccurate reporting of food or medical GRT deduction (not managed audit taxpayers) (HB 380 & SB 323);
- decrease of interest rates on deficiencies and overpayments (HB 390 & SB 318);
- increase of penalties for failure to pay tax or file return (HB 390 & SB 318);
- documentation to support the deduction pursuant to Section 7-9-47 NMSA 1978 (HB 380 & SB 323);
- licensing referrals to the Regulation and Licensing Department for noncompliance (HB 389 & SB 322);
- criminal penalty for obstructing tax investigations (HB 827 & SB 707); and
- commercial driver's license amendments (HB 317).

The committee agreed that changing the managed audit provisions from 30 days to three months would be more agreeable than the TRD recommendation to change to six months. Secretary Goodwin responded that such a change would be an improvement; however, the gain in revenue collections would likely not be as great as the six months recommended by TRD.

Road Fund Status and Highway Construction and Maintenance Costs

Rhonda Faught, secretary, Department of Transportation (DOT), made a presentation concerning highway construction costs.

- Federal highway funds will remain level, which represents approximately \$50 million less than anticipated.
- State revenue collections are good and are expected to exceed the forecast by approximately \$2 million to \$10 million this fiscal year.
- Forty-four states, the District of Columbia, Alberta and Ontario responded to an

American Association of State Highway Transportation Officials (AASHTO) survey.

- ▶ Thirty-five entities reported that they are experiencing fewer competitive bids for highway projects compared to three years ago.
- ▶ Forty-one entities reported that they are experiencing significant cost increases
- ▶ New Mexico has experienced a 12 percent increase in cost compared to 70 percent for Utah, 68 percent for Texas and 52 percent for Colorado.
- ▶ New Mexico cost containment has been achieved through design optimization, value engineering, economy of scale contracting, alternative bid procedures, etc.

Speaker Lujan asked about the impact of inflation on the buying power of the gasoline excise tax during the past 10 years. Secretary Faught responded that the 17-cent tax currently buys what 13 cents would have purchased in 1995.

The DOT road fund receives 12 cents of the 17-cent gasoline tax. The average gasoline tax across the country is 22 cents per gallon.

Senator Smith expressed concern about the ability to service the debt on transportation bonds, reduced federal funding and the impact of inflation on the state gasoline tax. He indicated that the legislature and the executive branch will eventually have to address a stable revenue source for financing highway construction.

Post-Session Fiscal Summary

David Abbey, director, LFC, made a presentation concerning the status of revenues and appropriations following the 2006 session.

- Fiscal year 2006 revenue collections are exceeding the forecast by approximately \$100 million.
- Major contributors to the strong collections are the GRT and personal income tax.
- The GRT has been bolstered by the construction sector.
- Personal income tax withholding is strong, which signals broad-based economic health.
- The fiscal year 2007 budget represents an 8.3 percent increase over 2006.
- Total capital outlay appropriations were \$852 million.
- Reserves are expected to be 10.5 percent of recurring appropriations at the end of fiscal year 2007.
- Based on the 2006 consensus forecast, it was anticipated that there would be \$168 million of new money to spend in fiscal year 2008.
- It is possible that the fiscal year 2008 new money may be increased by \$150 million for a total of \$318 million.
- The governor vetoed \$161 million of general fund appropriations.

Senator Smith observed that the governor's vetoes, designed to maintain the reserve, were not necessary in view of the excess revenue collections.

Representative Varela expressed concern over the impact of inflation on state government operating budgets and the federal government shifting financial responsibility for program funding to the states.

Adoption of Committee Work Plan and Meeting Schedule

Ms. Ray and Ms. Griffith presented the proposed work plan. Ms. Ray explained that the Legislative Council prescribed certain subject areas for the committee to examine.

Senator Smith suggested that the committee finalize its legislative recommendations by the September meeting so that fiscal impact reports (FIR) might be prepared. Senator Smith does not want to repeat the 2005 procedure wherein the committee approved legislative initiatives in concept without knowledge of the fiscal impact.

Ms. Griffith recommended that the committee take action on actual bill drafts rather than approving initiatives in concept.

Ms. Ray suggested that the committee reserve the October meeting for review of draft legislation.

Speaker Lujan expressed concern that, if the committee declines to approve legislation in the absence of an FIR, then TRD is in the position of "killing" an initiative simply by failing to produce an FIR.

Senator Taylor recommended that the scheduled November 2-3 meeting be changed to later in the month at the discretion of the Legislative Council.

Senator Smith suggested that a review of New Mexico's gaming laws and the structure of the State Racing Commission and Gaming Control Board be added to the work plan.

Senator Smith would like the committee to review the revenue sources available to New Mexico state government. The objective is to achieve sustainable, broad-based sources and avoid catastrophic budget cuts.

The committee adopted the amended work plan and meeting schedule.

Other Business

There was no other business brought before the committee.

Adjournment

The committee adjourned at 2:45 p.m.